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30 UNITED STATES DISTRICT COURT
31 NORTHERN DISTRICT OF CALIFORNIA
32 SAN FRANCISCO DIVISION

33 AVAGO TECHNOLOGIES FIBER IP
34 (SINGAPORE) PTE. LTD., *et al.*,

35 Plaintiff,

36 vs.

37 EMCORE CORP., *et al.*,

38 Defendant.

STAY SHALL REMAIN IN EFFECT AND A
FURTHER STATUS REPORT SHALL BE FILED
BY 6/11/11



Case No.: C 08-5394 SI

JOINT STATUS REPORT

1 Plaintiffs Avago Technologies Fiber IP (Singapore) PTE Ltd. and Avago Technologies
 2 General IP (Singapore) PTE Ltd. and defendant Emcore Corp., through their attorneys, hereby
 3 submit this Joint Status Report pursuant to the Court's December 8, 2009 Notice.

4 On March, 17, 2009, the Court stayed this action, pursuant to 28 U.S.C. § 1659, pending
 5 resolution of an Investigation by the United States International Trade Commission
 6 ("Commission"), 337-TA-669, involving the same parties and issues that are involved in this
 7 action. 28 U.S.C. § 1659(a) provides, upon timely request by a party that is also a respondent in
 8 the proceeding before the ITC, for a stay "until the determination of the Commission becomes
 9 final."

10 The parties to the ITC Investigation completed a Final Hearing on November 20, 2009. On
 11 March 12, 2010, the Administrative Law Judge ("ALJ") issued the "Initial Determination On
 12 Violation of Section 337 and Recommended Determination on Remedy and Bond" ("ID/RD"). On
 13 May 13, 2010, the Commission issued notice of its decision not to review the ID, and requested
 14 submissions on remedy, bonding, and the public interest. On July 12, 2010, the Commission
 15 issued both (1) "Commission Opinion" and (2) "Issuance of a Limited Exclusion Order and Cease
 16 and Desist Order; and Termination of the Investigation." On that same day, the Commission's
 17 opinion and orders were delivered to the President and the United States Trade Representative,
 18 triggering the 60-day Presidential review, pursuant to 19 U.S.C. §§ 1337(j)(2) and (4). The
 19 Presidential review period expired without the President taking any action in September 2010.
 20 Emcore timely filed a Notice of Appeal in the Federal Circuit on November 8, 2010, which was
 21 docketed on November 10, 2010.

22 With respect to a stay as a matter of right pursuant to 35 U.S.C. 1659(a), the Federal Circuit
 23 construes "final" to mean "until all appeals are exhausted." *In re Princo*, 486 F.3d 1365, 1369
 24 (Fed. Cir. 2007). If the parties consume all of the time allotted for briefing, the appeal is expected
 25 to be calendared in May 2011, unless the panel deems that oral argument is not necessary.
 26 Accordingly, the parties respectfully request that the stay remain in effect and that they update the
 27 Court with an additional joint status report by June 1, 2011.

1 DATED: 11/15/10

NOVAK DRUCE + QUIGG LLP

2 \s\

3 By:

Robert F. Kramer
Stephanie R. Wood

4
5 Attorneys for Plaintiffs
6 AVAGO TECHNOLOGIES FIBER IP
(SINGAPORE) PTE. LTD. AND AVAGO
7 TECHNOLOGIES GENERAL IP (SINGAPORE)
PTE. LTD.

8 DATED: 11/15/10

REDENBACHER & BROWN, LLP

9 \s\

10 By:

John C. Brown
Attorneys for Defendant, EMCORE CORP.

11 **CERTIFICATION BY STEPHANIE WOOD PURSUANT TO GENERAL RULE. NO. 45,**

12 **SECTION X, RE E-FILING ON BEHALF OF MULTIPLE SIGNATORIES**

13 In accord with the Northern District of California's General Order No. 45, Section X.(B), I
14 attest that concurrence in the filing of this document has been obtained from each of the other
15 signatories who are listed on the signature pages.

16 Pursuant to General Rule No. 45, I shall maintain records to support this concurrence for
17 subsequent production for the Court if so ordered, or for inspection upon request by a party until
18 one year after final resolution of the action (including appeal, if any).

19 Executed this 15th day of November, 2010, at San Francisco, California.

20 /s/ Stephanie R. Wood

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